

In re Patent Application of:

MCCARTHY ET AL.

Serial No. 10/779,402

Filed: **FEBRUARY 13, 2004**

REMARKS

The Examiner is thanked for the careful examination of the present application. To more clearly define over the prior art, independent Claims 1, 9, 14, and 17 have been amended to incorporate the subject matter of dependent Claims 4, 11, 16, and 19, respectively. Dependent Claims 4, 11, 16, and 19 have been canceled for consistency. No new issues are raised by these amendments.

In view of the amendments and arguments presented in detail below, it is submitted that all claims are patentable over the prior art.

I. The Amended Claims

The invention, as recited in amended independent Claim 1, for example, is directed to a communications system that includes a plurality of servers connected together in a network for processing a plurality of different job types having respective different resource usage characteristics associated therewith. Each server determines its own respective health metric based upon at least one job being processed thereby and weighs the health metric based upon the respective resource usage characteristic of the at least one job. The servers map the weighted health metrics for different resource usage characteristics to a common scale. The communications system includes a dispatcher for collecting the commonly scaled weighted health metrics from the servers and distributing jobs to the

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servers based thereon.

Independent Claim 9 is directed to a load distributor for a plurality of servers and has been similarly amended. Independent Claim 14 is directed to a job distribution method for a plurality of servers and has been similarly amended. Independent Claim 17 is directed to a corresponding computer readable medium and has also been similarly amended.

II. The Claims Are Patentable

Independent Claims 1, 9, 14, and 17 have been amended to include the subject matter of dependent Claims 4, 11, 16, and 19, respectively. These dependent Claims were rejected over Albert et al. Albert et al. is directed to a system and method for selecting a server to handle a connection. The method includes receiving at a service manager a connection request intercepted by a network device having a forwarding agent that is operative to receive instructions from a service manager, the connection request having been forwarded from the forwarding agent on the network device to the service manager. A preferred server is selected at the service manager from among a group of available servers. The preferred server is the server that is to service the connection request. Instructions are sent from the service manager to the forwarding agent. The instructions include the preferred server that is to service the connection request so that the connection request may be forwarded from the network device to the preferred server. The service manager can be further configured to receive feedback messages, from the

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servers, that express the level of load on the server.

It is, however, respectfully submitted that the Examiner has misread Albert et al. and that amended independent Claims 1, 9, 14, and 17 are patentable over Albert et al. In particular, Albert et al. fails to disclose that the servers map the weighted health metrics for different resource usage characteristics to a common scale, as recited in the independent claims. Differently, Albert et al. discloses the normalization of a same resource usage characteristic of each server to a common scale so that the weight of each server expresses its relative capacity to process packets, that is, its capacity compared to the capacity of all other servers that are available (see col. 30, lines 8-11).

Indeed Albert et al. makes no disclosure whatsoever of the feasibility or desirability of normalizing different resource usage characteristics to a common scale. In fact, Albert et al. does not disclose the existence of different resource usage characteristics whatsoever, and only discloses the use of feedback messages expressing the level of load on a server as a whole, weighted based upon how much processing capacity the server has left. Therefore, Albert et al. does not disclose the claimed feature of the servers mapping the weighted health metrics for different resource usage characteristics to a common scale.

Accordingly, amended independent Claims 1, 9, 14, and 17 are patentable over Albert et al. Their respective dependent

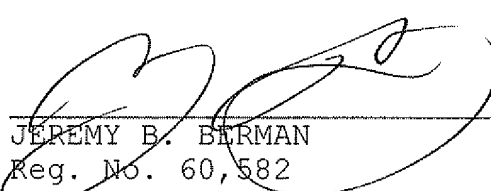
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claims, which recite yet further distinguishing details, are likewise patentable and require no further discussion herein.

CONCLUSION

In view of the amendments to the claims and the arguments provided herein, it is submitted that all the claims are patentable. Accordingly, a Notice of Allowance is requested in due course. Should any minor informalities need to be addressed, the Examiner is encouraged to contact the undersigned attorney at the telephone number listed below.

Respectfully submitted,



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